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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

MASTERFILE CORPORATION, Plaintiff, vs. MARTIN GALE, <i>et al.</i> , Defendants.	CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT Case No. 2:09-cv-966-DB Judge Dee Benson
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Defendants Martin Gale, Laurie Gale and Gale Services P.C. respectfully move the Court for partial summary judgment on whether the Court should reduce its award of statutory damages, if any, pursuant to 17 U.S.C. § 504(c)(2).

The reason for this motion is that the Defendants in this case are innocent. The Copyright Act allows the Court to reduce statutory damages to \$200 per work if it finds that an “infringer was not aware and had no reason to believe that his or her acts constituted an infringement of

copyright.” 17 U.S.C. § 504(c)(2). Gale Services purchased an electronic presentation created and uploaded to the internet by a third party. Gale Services and its owners, Martin and Laurie Gale, had a reasonable expectation that the product sold and uploaded by Real Estate Power Tools was fit for its intended purpose. Defendants had a reasonable belief, based on the purchase price and the conduct of Real Estate Power Tools in offering and uploading the presentation, that the purchase included legal authorization to display the presentation. As soon as Defendants learned of Plaintiff’s copyright claim, Gale Services instructed Real Estate Power Tools to immediately remove the presentation from the website. Defendants were not aware and had no reason to believe that their acts constituted an infringement of copyright.

Accordingly, and for the reasons set forth in Defendants’ supporting memorandum, declarations and other evidence, Defendants request a finding that they are innocent infringers and a reduction in damages to the reduced statutory minimum for each of twelve works for a total judgment of no more than \$2,400.

Respectfully submitted this 3rd day of May, 2013.

/s/ Billie J. Siddoway
Billie J. Siddoway
*Co-Counsel for Defendants Martin Gale,
Laurie Gale and Gale Services*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 3rd day of May, 2013, a true and correct copy of the foregoing was caused to be filed with CM/ECF with electronic service to the following:

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/s/ Billie J. Siddoway